

GUIDELINES FOR TRIALS BEFORE JUDGE BARR

SANTA ANA

1. Trial/Pretrial Calendars

At any status conference, when an adversary proceeding is deemed ready for trial, one of the following alternatives will be implemented by Judge Barr:

- (a) it will be set on a trial-ready calendar with other matters in the same status (the trial-ready conference);
- (b) it will be assigned a specific date and time for trial; or
- (c) it will be set for pretrial conference

All trials of less than one day will be set on the trial-ready calendar unless counsel justify setting the matter on a specific date and time (i.e., for the convenience of witnesses, to avoid prejudicial delay, etc.). If a trial is likely to last more than one day, a pretrial conference will be set and a trial date will be set when a joint pretrial order is approved by Judge Barr.

All counsel must be ready for trial on the date set for trial or when they appear for the trial-ready conference. The latter will usually be held on an assigned Monday morning at 9:30 a.m. At that time, a specific trial date and time during that week will be assigned for each proceeding on the calendar to the extent possible.

GENERALLY WITNESSES NEED NOT APPEAR AT THE TRIAL-READY CONFERENCE – BUT THEY SHOULD BE AVAILABLE ON ONE HOUR CALL

It is the responsibility of all parties to arrange for the availability of their witnesses based on the assigned trial times. Because short trials may commence on the day of the trial-ready conference, all witnesses must be available within an hour of being called. The trial time assigned at the trial-ready conference will be treated as a firm trial date.

Stipulations for settlement must be fully executed or set forth by all parties on the record at the trial-ready conference. Oral motions, other than motions to dismiss the adversary proceeding by agreement of the parties, may not be presented at the trial-ready conference; but at that time counsel must apprise the court of the likelihood of pre-trial motions and other matters which may affect the conduct of trial.

CONTINUANCES OF THE TRIAL OR TRIAL- READY CONFERENCE WILL NOT BE GRANTED EXCEPT IN EXTRAORDINARY SITUATIONS AND IN THE INTEREST OF JUSTICE.

2. Guidelines For The Conduct Of Trials

- a. Trial Briefs: Trial briefs are required for all trials unless Judge Barr rules otherwise at the pretrial conference or at the last status conference held prior to the trial-ready conference or trial. Trial briefs must be filed seven days before the trial-ready conference or trial date.
- b. Exhibits: Unless Judge Barr rules otherwise at the status conference preceding the trial-ready conference, witness lists and copies of all exhibits (other than those intended for rebuttal or impeachment only) must be exchanged at least 30 days before the trial-ready conference or trial. At trial each counsel must provide the judge a bench copy of exhibits which he/she may offer into evidence as part of his/her client's case in chief (i.e., excluding exhibits which will be used for impeachment or rebuttal only). At that time counsel must also have the original set of exhibits, with tags attached (as noted below), and conformed sets of exhibits for opposing counsel and witnesses. Exhibits must be placed in binders properly indexed, identified and tabbed (as noted below). An exhibit register must be provided with each set of exhibits. Exhibit tags must be stapled to the lower right hand corner of each exhibit (within the four corners of the document) and the first 4 lines of each tag must be filled out prior to trial. The pages of all copies of each exhibit containing more than one page must be sequentially numbered. Exhibits in all exhibit notebooks must be separated by tabbed dividers bearing numbers or letters corresponding to the exhibit immediately following the tab. Unless a joint exhibits notebook is to be used at trial, the plaintiff's exhibits must be numbered and the defendant's exhibits must be lettered.
- c. Each counsel must follow the foregoing procedure with regard to presentation of impeachment and rebuttal exhibits as well, except that counsel need not exchange those exhibits with opposing counsel prior to trial and those exhibits need not be placed in binders. But the copy of each such exhibit which is to be used as the "original" must be presented in form capable of insertion into the exhibits notebooks when the exhibit is utilized at trial (i.e., three-hole punched, tagged, with accompanying tabbed divider, etc.).
- d. Testimony: Generally, all testimony at trial must be presented orally by witnesses in the courtroom. Testimony by video conference, video tape, audio tape or by other means, even if counsel have agreed between themselves, may only be presented upon receiving specific approval from Judge Barr before he sets the trial-ready conference or trial.
- e. Testimony By Declaration: Based on Local Rule 13.6 of the District Court for Central District of California, if the attorneys submit a written stipulation by which they agree to testimony by declaration, (or if at a status conference Judge Barr so requires), the attorneys may (or must) submit direct testimony of voluntary witnesses by declarations. Witnesses whose declarations are offered must be present in court for cross-

examination at the time their declarations are presented (unless the parties agree otherwise in writing prior to trial or orally at trial).

Unless Judge Barr orders otherwise prior to trial, Plaintiff/movant must file and serve all declarations on counsel for defendant/respondent thirty days before the trial-ready conference or trial date (whichever first occurs).

Defendant/respondent must serve all declarations on counsel for plaintiff/movant twenty-one days before the trial-ready conference or trial date (whichever first occurs).

If declarations are to be used for direct testimony and if exhibits are referred to in those declarations, unless prior to trial the parties stipulate to the admissibility of those exhibits, or those exhibits have already been admitted into evidence at trial by other means, all elements of foundation necessary for admission of those exhibits into evidence at trial must be established in the declarations. The Court may allow oral testimony for that purpose if justice so requires. Exhibits referenced in any declaration must be offered into evidence when the declaration is presented at trial. Evidentiary objections to all declarations and attached exhibits must be served on opposing counsel and filed with the court at least seven calendar days before the trial date.